THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21820 OF 2006

DATED 13th NOVEMBER, 2006

BETWEEN:

Surukanti Rami Reddy and others

… Petitioners

AND

The Joint Collector and Additional District Magistrate, Nalgonda District, Nalgonda, and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21820 OF 2006

ORDER:

The land admeasuring Acs.4.14 guntas in survey No.167 and Acs.3.11 guntas in survey No.168 situated at Veliminedu village, Chityala Mandal, are claimed by petitioners as well as third respondent herein. On an application filed by third respondent, the Inams Tribunal, namely, Revenue Divisional Officer (second respondent herein) granted Occupancy Rights Certificate (ORC) under Section 10 of A.P. (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) as amended by A.P.Amendment Act 19 of 1994. Aggrieved by the same, petitioners preferred an appeal under Section 24 of the Act before first respondent.

The petitioners also filed a suit being O.S.No.48 of 1999 on the file of the Court of the Senior Civil Judge, Nalgonda for permanent injunction against District Collector and the Assistant Commissioner, Endowments, Nalgonda. The suit was dismissed on 19.06.2000 only on the ground that the civil Court has no jurisdiction to maintain the suit. However, the civil Court found that the first petitioner was in possession of the land. Be that as it is, when the appeal was heard by

the first respondent, placing reliance on the Judgment of the civil Court in O.S.No.48 of 1999, the first respondent dismissed the appeal observing that in view of the decision of the civil Court, no interference is called for with the ORC granted by the second respondent. This order, dated 05.01.2004, is assailed in the writ petition.

Learned counsel for the petitioners *inter alia* contends that the first respondent is required to consider the matter independently with reference to the records and decide the entitlement for ORC. Merely because the suit is dismissed, the appeal cannot be rejected mechanically. He also points out that civil Court itself found that the first petitioner was in possession of the land, but rejected the suit claim for want of jurisdiction. **Opposing the writ petition**, the learned standing counsel for third respondent submits that first petitioner has only possessory rights over the land and therefore, ORC cannot be granted in his favour.

While granting the ORC to such class of persons as found in Sections 4 to 7 read with Section 10 of the Act, the essential question to be determined by the Inams Tribunal as well as the appellate authority under the Act is who is in possession as on the date of vesting i.e., 01.11.1973. Further, under Section 10 of the Act, the Inams Tribunal is required to enquire into the nature and history of the land and record the person in possession on the date of vesting as an occupant of the land. As seen from the impugned order no enquiry whatsoever was conducted by the Joint Collector. The appeal being a continuation of the original proceedings, the appellate authority was required to verify the records, to enquire into the nature of the rights claimed by the petitioner and third respondent and then pass appropriate orders. The order passed for want of reasons cannot be sustained.

In the result, the writ petition is disposed of. The impugned order is set aside and the matter is remanded to the first respondent, who shall re-hear the matter and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order. No costs.

(V.V.S.RAO,J)

13.11.2006
pln

Note: Issue CC by 20.11.2006.
(By order)
pln